

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CHRISTIN MCLUCAS,**  
**Plaintiff,**

**v.**

**KINDRED HEALTHCARE, INC., et al.,**  
**Defendants.**

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**CIVIL ACTION**

**NO. 11-7496**

**MEMORANDUM**

PRATTER, J.

APRIL 15, 2013

Plaintiff Christin McLucas, a female nurse, is suing her former employers and former manager for sexual harassment and retaliation in violation of Title VII and the Pennsylvania Human Relations Act (“PHRA”). Ms. McLucas also brings an intentional infliction of emotional distress claim against the defendants. On June 29, 2012, William Wilson, Ms. McLucas’s counsel, filed a motion to withdraw because, counsel claims, Ms. McLucas would no longer communicate with him. The Court has since held two hearings on the withdrawal motion and given Ms. McLucas ample time to reestablish communications with Mr. Wilson, to no avail. Given these circumstances, and for the reasons that follow, the Court grants counsel’s pending motion to withdraw.

**I. Factual Background and Procedural History**

Ms. McLucas filed her complaint in this matter on December 7, 2011, while she was represented by Mr. Wilson. The Court held an initial pretrial conference with counsel for the parties on April 13, 2012 and issued a scheduling order that set a discovery deadline of July 30, 2012, a dispositive motion deadline of August 31, and a trial pool date of October 2. However, Mr. Wilson moved to withdraw as counsel for Ms. McLucas on June 29, 2012 because Ms. McLucas had not responded to his communications for almost two months. Specifically,

according to counsel, Ms. McLucas failed to respond to four emails sent by Mr. Wilson, eight telephone calls made by Mr. Wilson, and a letter from Mr. Wilson, who also sent Ms. McLucas a draft of his motion to withdraw one week before he filed it with the Court.

On July 5, 2012, the Court entered an order scheduling a hearing for July 20 to address the motion to withdraw. The order required Mr. Wilson to serve both it and his motion on Ms. McLucas by email, certified mail, and regular mail, and mandated that Ms. McLucas attend the hearing. On July 13, 2012, Mr. Wilson filed an affidavit stating that he had served Ms. McLucas with his motion and the Court's order. Ms. McLucas failed to appear in court on July 20, and there was no communication from her to the Court.

At the July 20 hearing, Mr. Wilson recounted his efforts to contact Ms. McLucas and suggested the case be put into suspense status in hopes that his client would eventually resurface.<sup>1</sup> Following the hearing, the Court placed the case into suspense by way of an order that also required Mr. Wilson to continue his attempts to contact Ms. McLucas. Both the Court and Mr. Wilson transmitted a copy of this order to Ms. McLucas.

On February 4, 2013, the Court scheduled a second hearing for March 6 on the motion to withdraw and again ordered Ms. McLucas to attend the hearing. Ms. McLucas ignored the order and failed to appear. During the March 6 hearing, Mr. Wilson stated that he was finally able to meet with Ms. McLucas on December 31, 2012, at which point she had expressed a desire to continue litigating this case. However, Ms. McLucas once again disappeared after her New Year's Eve meeting with Mr. Wilson. Mr. Wilson stated that he has been unable to communicate with Ms. McLucas since the December 31 meeting.

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<sup>1</sup> Defense counsel agreed that the case should be put into suspense status for a reasonable amount of time.

## II. Legal Standard

Under this District's Local Rules of Civil Procedure, an "attorney's appearance may not be withdrawn except by leave of court, unless another attorney of this court shall at the same time enter an appearance for the same party." Local R. Civ P. 5.1(c). Whether to permit an attorney to withdraw must be determined with reference to the underlying purpose of Local Rule 5.1, which includes "ensuring effective court administration." *See Ohntrup v. Firearms Ctr., Inc.*, 802 F.2d 676, 679 (3d Cir. 1986); *see also Carter v. City of Philadelphia*, No. 98-2903, 2000 WL 537380, at \* 1 (E.D. Pa. Apr. 25, 2000); *Greene v. Rubin*, No. 95-2415, 1995 WL 723188, at \* 1 (E.D. Pa. Dec. 5, 1995). In adjudicating an attorney's motion to withdraw, the Court should consider: (i) the reasons withdrawal is sought; (ii) the prejudice withdrawal may cause to the litigants; (iii) the harm withdrawal might cause to the administration of justice; and (iv) the degree to which withdrawal will delay resolution of the case. *See Carter*, 2000 WL 537380, at \*1; *Greene*, 1995 WL 723188, at \*1.

## III. Discussion

Given the history of this case, the Court will grant the motion to withdraw based on the factors discussed in *Greene* and *Carter*. Mr. Wilson has provided compelling reasons for his withdrawal, given that Ms. McLucas has all but ignored his attempts to communicate with her for the past 11 months. Moreover, withdrawal will not unduly harm the administration of justice or delay the resolution of this case. Mr. Wilson is essentially serving as a counsel without a client, and in such a situation counsel cannot make the case proceed more efficiently than it would if Ms. McLucas was represented by another lawyer or was a *pro se* litigant. Finally, withdrawal will not overly prejudice Ms. McLucas, as her silence already has rendered Mr.

Wilson ineffective and essentially left him unable to litigate her case. For the same reasons, permitting Mr. Wilson to withdraw will not visit undue prejudice on the Defendants either.

#### **IV. Conclusion**

For the foregoing reasons, Mr. Wilson's motion to withdraw is granted.

An Order consistent with this Memorandum follows.

BY THE COURT:

S/Gene E.K. Pratter  
GENE E.K. PRATTER  
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>CHRISTIN MCLUCAS,</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>KINDRED HEALTHCARE, INC., et al.,</b>	:	<b>NO. 11-7496</b>
<b>Defendants.</b>	:	

**ORDER**

AND NOW, this 15th day of April, 2013, upon consideration of the Motion to Withdraw (Docket No. 12) filed by Plaintiff's attorney William Wilson, as well as the information presented at two subsequent hearings on the Motion, both of which Plaintiff failed to attend in violation of the Court's directives, it is hereby ORDERED that:

1. The Motion to Withdraw (Docket No. 12) is GRANTED.
2. The Clerk of Court shall remove this case from suspense status.
3. The Clerk of Court shall terminate Mr. Wilson as Plaintiff's counsel of record and change the docket to reflect Plaintiff's *pro se* status.
4. The Clerk of Court shall add Plaintiff's last known address – 2716 Wood Lane, Morgantown, Pennsylvania, 19543 – to the docket, and shall mail this Order, as well as all subsequent memoranda and orders of the Court, to that address.
5. All discovery shall proceed promptly and continue in such manner as will assure that all requests for, and responses to, discovery will be served, noticed and completed by June 10, 2013.
6. By no later than June 10, 2013, any party expecting to offer opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 with respect to the

issues of liability and damages shall serve opposing parties with details and/or documents covering the lay opinions of the Rule 701 witnesses.

7. Any motions for summary judgment or Daubert motions shall be filed and served on or before July 12, 2013. Responses to any such motions shall be filed and served within twenty-one (21) days after service of the motion. All counsel and unrepresented parties are directed to review the Court's General Pretrial and Trial Policies and Procedures on the Court's website<sup>1</sup> in order to be familiar with the Court's requirements with respect to summary judgment motions. To that end, the Court directs the parties that, in both their submissions and responses, controlling legal opinions rendered by the United States Supreme Court and the Court of Appeals for the Third Circuit shall be cited to and discussed, whenever possible, to defend arguments in support of and/or in opposition to the motion. Two copies of any such motions and responses shall be served on the Court (Chambers, Room 10613) when the originals are filed.
8. If necessary, the Court will schedule additional pretrial deadlines following the deadline for filing summary judgment or Daubert motions.
9. EXTENSIONS OF TIME: Any necessary application for extension of any time deadlines set forth in this Order shall be made in writing and submitted to the Court no later than three (3) days prior to the date sought to be changed or extended. Any such request shall include a factual verification of counsel or unrepresented party or witness showing good cause for the request, shall contain a statement of the position of all other parties as to the request, and, if the request

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<sup>1</sup> <http://www.paed.uscourts.gov/documents/procedures/prapol2.pdf>

relates to a discovery deadline, shall recount what discovery the parties have thus far accomplished.

BY THE COURT:

S/Gene E.K. Pratter  
GENE E.K. PRATTER  
United States District Judge